



**TEMPORARY INTERGOVERNMENTAL AGREEMENT FOR LAW ENFORCEMENT
SERVICES IN PREPARATION FOR, DURING, AND AFTER THE 2012
DEMOCRATIC NATIONAL CONVENTION
Durham NC PD final draft**

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is made and entered into this 5th day of July, 2012, by and between the **CITY OF CHARLOTTE, CHARLOTTE-MECKLENBURG POLICE DEPARTMENT** (hereinafter referred to as "**CITY**") and City of Durham Police Department (hereinafter referred to as "**AGENCY**"). **AGENCY** means law enforcement personnel or other employees employed by that **AGENCY** and/or the legal entity that employs those personnel. The City and the Agency are collectively referred to as the "**PARTIES**."

PURPOSE

The **CITY** has been designated as the host city for the 2012 Democratic National Convention to be held on September 4, 2012, to September 6, 2012, (hereinafter referred to as the "**EVENT**"). The purpose of this Agreement is to provide additional law enforcement personnel and services to **CITY** for the period of August 28, 2012, through September 7, 2012. (hereinafter referred to as the "**EVENT PERIOD**") This agreement defines the rights and obligations of the parties for the **EVENT PERIOD** including: the law enforcement powers of the visiting **AGENCY**; the **CITY**'s protocol for compensating the **AGENCY**; the Insurance coverage provided to **AGENCY**; the **AGENCY**'s training obligations; and the protocol establishing a chain of command between the **CITY** and **AGENCY** during the **EVENT PERIOD**.

ARTICLE ONE:

STATUTORY AUTHORITY

1.01. Statutory Authority to enter into Temporary Enforcement Assistance Agreements. The statutory authorities for **CITY** to enter into temporary enforcement assistance agreements with both in and out of state **AGENCIES** are set forth in G.S. §160A-288 and §160A-288.3 respectively. (A copy of these statutes are attached to this agreement and incorporated herein as "Exhibit A")

ARTICLE TWO: ORGANIZATIONAL STRUCTURE

2.01 Responsibility for Coordinating Local Law Enforcement Efforts: **AGENCY** agrees and acknowledges that **CITY** has been designated as the host city for the Democratic National Convention to be held in Charlotte, North Carolina from September 4, 2012 thru September 6, 2012.

2.02. National Special Security Event: **AGENCY** agrees and acknowledges that the 2012 DNC convention has been classified by the federal government as a National Special Security Event (NSSE).

2.03. Coordinating Local Law Enforcement: **AGENCY** agrees and acknowledges that **CITY** is a co-chair on the NSSE Executive Steering Committee and is responsible for coordinating law enforcement efforts in support of the **EVENT**.

2.04. Unified Law Enforcement Chain of Command. **AGENCY** acknowledges and agrees that at all times during any joint training session prior to and at all times during the **EVENT PERIOD**, the **AGENCY's** employees shall be subject to a structure of supervision, command and control coordinated by the **CITY** through a unified law enforcement command structure. Furthermore, that the supervision command and control shall be implemented regardless of such employee's rank or job title normally held within the **AGENCY**.

2.05. **CITY's** Commanding Officers. The commanding officer for this **EVENT** is Rodney Monroe, Chief of Police and Harold Medlock, Deputy Chief of Police.

2.06. **CITY'S** Policies and Directives to Apply. **AGENCY** employees performing services under this Agreement will abide by applicable Charlotte- Mecklenburg Police Department (CMPD) Policies and Directives which will be provided to **AGENCY** in one or more **EVENT** information and training sessions ("2012 DNC Event Preparatory Materials") prior to the **EVENT** in hard copy or on-line. **AGENCY** shall disseminate

Event Preparatory Materials to all Law Enforcement Officers (**LEO's**) providing services for the **EVENT PERIOD**. In the event of a conflict between **AGENCY's** and CMPD Policies and Directives, **AGENCY** agrees to follow CMPD Policies and Directives with respect to any **EVENT PERIOD** related services provided hereunder and shall instruct its employees to do likewise.

2.07. Jurisdiction, police powers, rights, privileges and immunities: **AGENCY** acknowledges and agrees that while deployed under the Unified Law Enforcement Chain of Command, **AGENCY's LEOs** shall have the same jurisdiction, powers, rights, privileges and immunities (including those related to the defense of civil actions and payment of judgments) as **CITY's LEO's**. Nothing in this section shall be interpreted as a waiver of any rights, defenses or immunities that may be available to that **AGENCY** or its employees.

ARTICLE THREE: AGENCY RESPONSIBILITIES

3.01. Deployed Employees to Participate in Training. Upon reasonable advance written notification from CMPD, **AGENCY's** employees being deployed during the **EVENT PERIOD** shall participate and assist in **EVENT** training activities that are coordinated by CMPD or its designee. For purposes of this Agreement, training activities will include DNC Event Preparatory Materials and mandatory on-line training that must be completed prior to August 15, 2012, for all **AGENCY** employees providing services during the **EVENT PERIOD**. CMPD presently expects to provide an event operating and a briefing manual to **AGENCY** upon its arrival at or prior to the **EVENT PERIOD**.

3.02. **AGENCY's** employees to Provide Services. Upon reasonable advance written notification from the CMPD to the **AGENCY**, the **AGENCY's** employees being deployed during the **EVENT PERIOD** shall provide services as assigned by CMPD.

3.03. **AGENCY's** employees "On Duty". **AGENCY** agrees its employees will be placed "on duty" by CMPD at a time and location as decided by CMPD. **AGENCY** agrees its employees shall be prepared to undertake the specific job tasks and responsibilities assigned to the **AGENCY's** employees by CMPD. **AGENCY** agrees that **CITY** may change the actual service to be provided by the **AGENCY** at anytime it deems necessary.

3.04. AGENCY's employees to Participate in "After Action Activities". At the request of the CMPD, AGENCY agrees its employee shall participate in and/or provide information to and otherwise cooperate with the CMPD in any "after action activities" following the conclusion of the **EVENT PERIOD**. Such participation may include debriefings of information and experiences, completion of surveys and questionnaires and assisting and/or participating in any civil and/or criminal legal proceedings.

3.05. AGENCY to Provide Information. AGENCY agrees to cooperate with and provide the CITY with any other information reasonably requested by the CITY that the CITY deems necessary to facilitate and enable compliance with the terms and conditions contained in this Agreement. Such information includes, but is not limited to verification of costs and expenditures incurred by AGENCY during the **EVENT PERIOD**.

3.06. AGENCY Contacts. AGENCY has designated the following contacts for operational and administrative purposes under this Agreement:

Operational Contact

Deputy Chief Larry Smith
Larry.Smith@durhamnc.gov
919-560-4322 x29201

Administrative Contact

Assistant Chief Jesse Burwell
Jesse.Burwell@durhamnc.gov
919-560-4322 29205

3.07. Resources to be provided by AGENCY. The personnel and resources to be provided by the AGENCY are set forth in Exhibit B attached to this agreement and incorporated herein. Exhibit B also sets forth the hourly rate of pay which the CITY will compensate the AGENCY for the time worked by its personnel.

3.08. CRITERIA FOR AGENCY's LEO. Each LEO provided by AGENCY shall meet the following criteria:

- a. Non – North Carolina AGENCIES shall ensure and certify that the LEO's providing assistance under this Agreement are duly licensed or certified by the authority of the state or jurisdiction in which the officer is employed.
- b. North Carolina AGENCIES shall ensure and certify that the LEO's providing assistance under this Agreement are duly certified by the state of North Carolina.

c. In addition, **AGENCY** shall ensure and certify that each of the **LEOs** provided is in good standing by meeting the following criteria:

1. That each **LEO** by reason of experience, training and physical fitness shall be capable of performing functions associated with a large scale security event; and
2. That each **LEO** shall have at least 12 months experience as a full time police officer; and
3. That each **LEO** is not currently under administrative leave pending the results of an internal investigation or under investigation for violations of rights protected by the First, Fourth and Fourteenth Amendments of the United States Constitution or laws or rules of conduct related to search and seizure and use of force; and
4. That each **LEO** has not received a sustained finding for conduct that involved dishonesty or fraud in the last 10 years or have any sustained complaints for excessive, unreasonable or unnecessary force within the last three (3) years; and
5. That each **LEO** has not been convicted of a felony or a crime involving dishonesty or fraud; and
6. That no **LEO** has been sued in an individual or official capacity in the last three (3) years and adjudicated as liable for violations of rights protected by the First, Fourth and Fourteenth Amendments of the U. S. Constitution.

d. **AGENCY** agrees to promptly notify the **CMPD** in the event that any **LEO** is no longer an officer in good standing with the **AGENCY**.

3.09. **LEO Equipment**. As detailed in the approved equipment list, attached to and made a part of this Agreement within Exhibit B, each **LEO** shall be equipped with the following: a seasonally appropriate patrol uniform and other authorized regular duty equipment, including but not limited to: service belts, service weapon, radio, and personal soft ballistic body armor as required to be worn by the **LEO** while on duty for the **AGENCY**. **AGENCY** shall not bring to the **EVENT PERIOD** or possess during the **EVENT PERIOD** any chemical or other non-lethal munitions except as provided by **CMPD**.

3.10. CMPD Can Decline LEO. **AGENCY** acknowledges and agrees that at any time during the term of this Agreement that the CMPD has the sole discretion to decline deployment of any **LEO** during the **EVENT PERIOD** without cause or explanation.

3.11. AGENCY Judgment and Priorities. **AGENCY** will exercise its best efforts to provide services during the **EVENT PERIOD**. However, the Parties recognize that **AGENCY** retains the right to recall some or all of its **LEO's** to its home jurisdiction based upon the public safety needs of its home jurisdiction.

3.12. AGENCY Responsible for Costs. Except as set forth in Articles Four and Five, **AGENCY** shall be responsible for all costs associated with providing **LEO** assistance that are not explicitly assumed by **CITY** as stated in this Agreement and authorized in writing. Nothing in this Section shall prohibit authorized representatives of the **CITY** and **AGENCY** from agreeing in writing to the assignment of specific costs borne of unforeseen circumstances during the **EVENT PERIOD**. For purposes of this Section, official electronic messaging will suffice for "in writing" only by the Commanding Officer or their designee.

ARTICLE FOUR: CITY RESPONSIBILITIES

In addition providing law enforcement planning for the **EVENT PERIOD**, **CITY** agrees to the following:

4.01. EVENT Training. **CITY** agrees that it will provide **EVENT** training for participating **AGENCY LEOs**, including Event Preparatory Materials on or about August 15, 2012.

4.02. Lodging and Food. **CITY** will provide lodging and food for Agency **LEOs** performing services under this Agreement. The CMPD shall provide lodging and food location assignments to Agency **LEOs** in writing prior to the Event Period. This shall include a standard *per diem* for each **LEO** for one day's travel to, and one day's travel from, the **CITY** or portion thereof.

4.03. Not to Exceed Amount. **CITY** shall further cover personnel and transportation expenses of **LEOs** providing services during the **EVENT PERIOD**. **AGENCY's** estimate of allowable expenses will be itemized on a Travel Reimbursement Request. A copy of the Travel Reimbursement Request is attached to Exhibit C. The compensation to **AGENCY** for **LEO** services pursuant to this Agreement has been based on this

estimate, as approved by **CITY**. This estimate is a “**not to exceed**” amount as set forth in Exhibit B. The **AGENCY** agrees that all actual payments in an amount equal or less than this amount shall be based on itemized invoices provided to **CITY** pursuant to its Fiscal Administration Requirements as set forth in Exhibit C.

4.04. Insurance. The **CITY** has procured Law Enforcement Liability Insurance and Workers’ Compensation Insurance for the **PARTIES** for the **EVENT PERIOD** as set forth in Section 14 of this agreement.

ARTICLE FIVE: FINAL PAYMENT TERMS

5.01. Necessary Costs. **AGENCY** shall only be paid for the necessary costs of participating during the **EVENT PERIOD** and any “**after action activities**” as described in Section 3.04.

5.02. LEOs Actually Utilized. Subject to the terms of this Agreement, the **CITY** agrees to provide payment to the **AGENCY** for each **LEO** for on duty services during the **EVENT PERIOD**.

5.03. Withhold Payment. In the event the **AGENCY** fails to comply with any terms or conditions of this Agreement or fails to provide in any manner the work or services as agreed to herein, the **CITY** reserves the right to withhold any available payment until the **CITY** is satisfied that: terms and conditions of this agreement have been met or that corrective action has been taken to the satisfaction of the **CITY**; or that the work or services in question was in fact provided pursuant to this agreement This right is in addition to and not in lieu of the **CITY**’s right of termination as provided in this Agreement.

ARTICLE SIX: LAW ENFORCEMENT PROCEDURES

6.01. Authority to Act as LEOs. **LEOs** from **AGENCIES** located outside the State of North Carolina shall have the same jurisdiction, powers, rights, privileges and immunities (including those related to the defense of civil actions and payment of judgments) as **LEO’s** for the **CITY** as set forth in N. C. G. S. § 160A-288.3. **LEO’s** from inside the State of North Carolina shall have the same jurisdiction, powers, rights, privileges and immunities (including those related to the defense of civil actions and payment of judgments) as **LEO’s** for the **CITY** as set forth in N. C. G. S. § 160A-288.

6.02. Law Enforcement Activities. Law enforcement methods employed by the **AGENCY's** LEOs shall conform to the lawful commands of the **CITY's** Chief of Police or his designee, CMPD's Directives and procedures, North Carolina law, the United States Constitution and any applicable federal law.

ARTICLE SEVEN: TERM OF AGREEMENT

7.01. Unless otherwise terminated by either Party as set forth in Article Twelve, the term of the Agreement shall commence as of the Effective Date first written above and terminate upon the completion of all obligations under this Agreement inclusive of participation in criminal and/or civil trials or claims unless terminated earlier as set forth herein.

**ARTICLE EIGHT: MUTUAL BENEFITS TO PARTIES -
CONSIDERATION**

8.01. Further Consideration. Other than the items stated in Sections 4.02 4.03 and 4.04, further consideration for this Agreement shall be non-monetary and shall consist of enhanced public safety and improved law enforcement activity in the Greater Mecklenburg and Cabarrus County regions during the **EVENT PERIOD** and other mutual benefits through the cooperative efforts of the Parties under this Agreement.

**ARTICLE NINE: STATUS OF AGENCY AS INDEPENDENT
CONTRACTOR; RULES OF CONDUCT**

9.01. Independent Contractor; Agency to be Fully Responsible. This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between the Parties. Moreover the rights and the obligations of the Parties under this Agreement will be only those expressly set forth in this Agreement. **AGENCY** will perform under this Agreement as an independent contractor to the **CITY** and not as a representative, employee, agent, or partner of the **CITY**. Except to the extent covered by the insurance policies covering the **CITY** under Article Fourteen of this agreement and the "not to exceed" compensation amount stated in Agreement Section 4.03, **AGENCY** acknowledges and affirms that unless specifically provided for by this agreement, **AGENCY** remains fully responsible for any and all obligations as the employer of

its LEOs assigned to the **EVENT PERIOD** except as specifically provided by this agreement.

9.02. Rules of Conduct. During the **EVENT PERIOD**, each LEO shall be required to comply with the CMPD's Directives and Policies and Procedures as provided by CMPD. If a conflict exists between the **AGENCY's** rules of conduct and the CMPD's rules of conduct, then CMPD's rules of conduct shall apply.

9.03. Discipline / Internal Investigation/ Criminal. The **CITY** shall refer disciplinary matters involving LEOs employed by outside **AGENCIES** to that **AGENCY**. The **CITY** and **AGENCY** agree to fully cooperate in any internal or criminal investigation involving each **PARTY's** LEO's to the extent permissible by law or by that **AGENCY's** collective bargaining agreements if applicable. Nothing in this section prevents the **CITY** from conducting its own independent investigation and making its own findings.

ARTICLE TEN: MUTUAL RESPONSIBILITY; NO WAIVER OF IMMUNITIES

10.01. Each Party to be Responsible. Each **PARTY** agrees that it will be responsible for its own acts and/or omissions and those of its officials, employees, representative and agents in carrying out the terms of this Agreement and the results thereof to the extent authorized by law and shall not be responsible for the acts and/or omissions of the other Party and the results thereof. Notwithstanding the foregoing, nothing contained in this Section shall waive, nor shall it be construed to waive any rights and benefits either party has with regard to its status under the insurance coverage described in Article Fourteen of this Agreement.

10.02. No Waiver of Defense or Immunity. It is understood and agreed that each **PARTY's** liability may be limited by the provisions or other immunity law applicable to the **AGENCY**. Parties understand and agree that each Party has not waived the rights, immunities and protections provided by law. Nothing contained in this Agreement shall waive or amend, nor shall be construed to waive or amend any defense or immunity that either Party, their respective officials and employees, may have under Article Fourteen or any other common-law immunity or limitation of liability, all of which are hereby reserved by the **PARTIES** hereto.

**ARTICLE ELEVEN: RECORDS AND DISSEMINATION OF
INFORMATION**

11.01. AGENCY to Comply. The **AGENCY** shall comply with all applicable local, state or federal laws and requirements pertaining to maintenance and disclosure of personal, criminal justice, medical or health records or data including those methods and procedures as set forth as privileged by the Secret Service or other governmental entity. Such records or data may be in hard copy, printed, digital or electronic format. If the **AGENCY** has custody of a record provided by the **CITY** which contains specialized details of security arrangements or investigations, the **AGENCY** shall refer any request to inspect that record to the **CITY** which shall review the material to determine whether it is privileged under law. **AGENCY** agrees to provide prior notice to **CITY** of any request for and/or release, transmission, or disclosure of information associated with or generated as a result of the work performed under this Agreement or related to the **EVENT** or the **EVENT PERIOD** in anyway and provide **CITY** the opportunity to review and object to the release.

11.02. CITY Access to Records. The **AGENCY** agrees that any duly authorized representative of the **CITY**, including the City Auditor or other financial representative, or a federal grant auditor, will have access to, and the right to, examine any directly pertinent books, documents, paper, records and data of the **AGENCY**, involving transactions related to this Agreement until the expiration of seven (7) years after the termination of this Agreement.

11.03. AGENCY to Provide Records. In the event of the need for personnel or other records in criminal and/or civil proceedings, the **AGENCY** agrees to provide such records as requested. In the event any records are privileged under law, **CITY** will be responsible for obtaining any applicable protective order.

ARTICLE TWELVE: TERMINATION RIGHTS OF PARTIES

12.01. By the CITY. The **CITY** may terminate this Agreement at any time without penalty. In addition to the foregoing termination rights, the **CITY** may terminate this Agreement without penalty based on the failure of the **AGENCY** to comply with or perform any material term, condition or obligation contained in this Agreement and **AGENCY's** failure to cure such default within seven (7) calendar days after the **CITY** or **CPMD** provides **AGENCY** with notice of such failure.

12.02. By the AGENCY. The **AGENCY** may terminate this Agreement without penalty prior to July 15, 2012, based on the **AGENCY's** determination per Section 3.11 that it does not have the resources available to participate in the **EVENT**.

12.03. Act In Good Faith. Both the **CITY** and the **AGENCY** shall act in good faith to provide as much advance written notice of termination under this Section to the other Party that is reasonable under the circumstances.

12.04. CITY Payment for Services. In the event of termination by either Party, the **CITY** will only pay **AGENCY** for those services authorized hereunder and actually, timely and faithfully rendered up to the receipt of the notice of termination and thereafter until the date of termination. Neither the **CITY** nor the **AGENCY** shall be entitled to the recovery of any penalties, consequential damages or attorneys' fees related in event of termination hereunder.

ARTICLE THIRTEEN: GOVERNING LAW; COMPLIANCE WITH LAWS

13.01. Applicable Law and Venue. Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with North Carolina law and any applicable federal law. Any action arising from this Agreement shall be brought and maintained in a state or federal court located in Mecklenburg County, North Carolina, which shall have exclusive jurisdiction of such action. No legal or equitable rights of the **PARTIES** shall be limited by this Section.

ARTICLE FOURTEEN: INSURANCE

14.01. Workers' Compensation Insurance. The parties understand that the **CITY** has procured Workers Compensation Insurance coverage for injury, illness or death of **AGENCY's** personnel during the **EVENT**. It is understood that the **POLICY** excludes employees from California, New Hampshire, Maine, Ohio, Washington, North Dakota, and Wyoming. The parties understand that each claim will be evaluated by the insurer to determine whether the injury, illness or death is compensable pursuant to the terms of the **POLICY**.

14.02. Police Professional Liability Insurance.

1. **CITY Binding Liability Policy.** The **CITY** has purchased a primary Police Professional Liability Insurance Policy (the "**POLICY**"), including law enforcement professional liability coverage policy which will be the primary policy during the **EVENT PERIOD**. In addition, the **CITY** is self insured up to two million dollars for each occurrence and has excess insurance coverage above the self insured retention.

a. **Primary Policy.** The **POLICY** will be the primary policy to the extent one or more policies of Police Professional Liability Insurance provide coverage for any claim or incident. The **POLICY** will be the primary policy to the extent an **AGENCY** is self-insured.

b. **Coverage Limits.** The parties understand that the **CITY'S** liability under the primary Law Enforcement Liability Agreement is limited to \$10,000,000.00 for each occurrence with an aggregate of \$10,000,000.00. The parties further understand and agree that each occurrence is subject to a \$25,000.00 deductible and that it is the responsibility of the **CITY** to pay the deductible.

c. **Cooperate With Underwriter.** **AGENCY** and its **LEOs** agree to cooperate with the underwriters for the **EVENT POLICIES** by timely providing information as is reasonably requested by the insurer or its designee(s):

(1) This cooperation will include both the underwriting process and the claims process and this obligation shall survive and extend (if necessary) beyond the termination date of this Agreement; and

(2) The **AGENCY** agrees to fully cooperate in the defense of any civil claims, as reasonably requested by the insurer or its designee and shall instruct its **LEOs** do the same.

2. **Claims and Defenses**

a. **Defense Can Be Provided.** The **AGENCY** understands that a defense can be provided for the **AGENCY**, its **LEOs** or other parties to the extent they are named as parties to a lawsuit for an action or omission that is alleged to have occurred during the course and scope of the services provided for the **EVENT PERIOD**; however, the **CITY** shall not have any duty to

indemnify for loss or liability against the actions or omissions that are judicially determined to be beyond the course and scope of the services provided for or in support of the **CITY** during the **EVENT PERIOD**.

- b. **CITY Responsible for Deductible**. The Parties agree the **CITY** will be responsible for any deductible amount required under the **POLICY**.
- c. **CITY/INSURER to Settle Claims**. The Parties agree the **CITY** and or the Insurer shall have the exclusive and sole right to approve or reject any compromise or settlement of any claim filed against the **AGENCY**, its **LEOs** or other insured parties.
- d. **No CITY Indemnity**. The **AGENCY** agrees the **CITY** shall not have any duty or obligation to indemnify against loss or liability beyond the monetary limit as provided by this agreement.

14.03. Additional Coverage

2012 Specific Coverage Automobile and Equipment. Each Party will, at all times, be legally self-insured or maintain auto insurance, equipment, and/or property insurance for its own automobiles, equipment or other property used during its performance of **EVENT PERIOD** services. The **AGENCY** agrees that **CITY** is not responsible for any loss or damage to automobiles, equipment or other property used during the **EVENT PERIOD**.

ARTICLE FIFTEEN: NOTICE

15.01. Termination Notices: Notices concerning the termination of this Agreement, alleged or actual violations of the terms or conditions of this Agreement, and other notices that may or should be given to either party under this Agreement will be made to each party as follows:

For Notice to the City:

Harold Medlock, Deputy Chief of DNC OPERATIONS
Charlotte-Mecklenburg Police Department
601 Trade Street
Charlotte, NC 28082
With copies to:

Mark H. Newbold
Police Attorney's Office
Charlotte-Mecklenburg Police Department
601 East Trade Street
Charlotte, North Carolina 28202

For Notice to the Agency: Jose L. Lopez, Sr., Chief of Police
Durham Police Department
505 West Chapel Hill Street
Durham, NC 27701

With Copies to: Captain Mike Ripberger
Durham Police Department
505 West Chapel Hill Street
Durham, NC 27701

Debbie Chelette
Durham Police Department
505 West Chapel Hill Street
Durham, NC 27701

ARTICLE SIXTEEN: LEGAL AUTHORITY

16.01. Possession of Legal Authority. Each Party represents that it possesses the legal authority, pursuant to proper, appropriate statute, ordinance, official motion, resolution or action passed or taken or required, to enter into this Agreement.

16.02. Authorization for Person Signing. The person or persons signing and executing this Agreement on behalf of each Party hereby represents and guarantees that he/she or they have been fully authorized by such Party to execute this Agreement on behalf of the Party and to validly and legally bind the Party to all the terms, conditions, performances and provisions herein.

16.03. Dispute as to Authority. The City shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either the Agency or the person signing the Agreement on behalf of such Agency.

ARTICLE SEVENTEEN: ADDITIONAL PROVISIONS

17.01. Further Assurances. The Parties shall perform such acts, execute and deliver such instruments and documents; and do all such other things as may be reasonably necessary to accomplish the transactions contemplated in this Agreement.

17.02. No Waiver. Acceptance of partial performance or continued performances after breach shall not be construed to be a waiver of any such breach.

17.03. Assignment and Subcontracting. Neither **PARTY** is obligated or liable under this Agreement to any Party other than the other **PARTY** to the Agreement. Each **PARTY** understands and agrees that it shall not assign or subcontract with respect to any of its rights, benefits or duties under this Agreement except upon prior written consent and approval of the other **PARTY** and in the event any other such assignment or subcontracting shall occur, such action shall not be construed to create any contractual relationship between the **PARTIES** and such assignee or subcontractor, and each **PARTY** herein named shall remain fully responsible to the other Party according to the terms of this Agreement.

17.04. No Third Party Beneficiary. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the **PARTIES** to the Agreement, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement, including but not limited to members of the general public. It is the express intention of the **PARTIES**

that any person or entity, other than the Parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

17.05. Use of Digital, Video and or Recording Devices. **AGENCY** agrees that none of its employees shall record and/or post electronically to any social network or otherwise in any fashion distribute any information or data related to the **EVENT**. **CITY** agrees to share information and data including video footage with **AGENCY** of the **EVENT** for training purposes at the discretion of **CITY** upon receiving a written request from the **AGENCY**.

17.06. Paragraph Headings. The captions and headings set forth in this Agreement are for convenience of reference only, and shall not be construed as defining or limiting the terms and provisions in this Agreement.

17.07. Severability. If any provision of this Agreement, or the application thereof, to any person, place or circumstance, is held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances will remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms will provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein. In such event, the **PARTIES** will negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly affects the **PARTIES'** intent in entering into this Agreement.

17.08. Agreement as Complete Integration – Amendments. This Agreement is the complete integration of all understandings between the **PARTIES** as to the subject matter. No addition, deletion, or other amendment hereto shall have any force or effect unless in writing properly executed by the **PARTIES**. Amendments to this Agreement will become effective when approved by the **CITY** and executed in the same manner as this Agreement.

17.09. Survival of Certain Provisions. The terms of the Agreement and any exhibits and attachments that by reasonable implications contemplate continued performance, rights or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable.

17.10. Counterparts. This Agreement may be executed in two (2) or more counterparts each of which will be deemed to be an original.

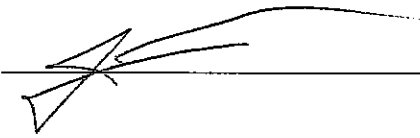
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF CHARLOTTE

By: _____
Chief of Police

AGENCY

City of Durham Police Department

By:  _____

Printed Name Jose L. Lopez, Sr.

Title: Chief of Police

**2nd ADDENDUM TO
TEMPORARY INTERGOVERNMENTAL AGREEMENT FOR LAW ENFORCEMENT
SERVICES IN PREPARATION FOR, DURING, AND AFTER THE 2012
DEMOCRATIC NATIONAL CONVENTION**

The above referenced Agreement is hereby amended this 11 day of July 2012 as follows: Exhibit C is amended to include paragraph G which reads:

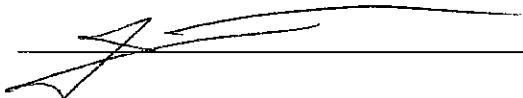
AGENCY certifies and acknowledges that BJA grant funds received under this agreement will not be used to supplant local and/or state funds. Information about supplanting can be found at <http://www.ojp.gov/funding/funding.htm>

CITY OF CHARLOTTE

By: _____
Chief of Police

AGENCY

Durham Police Department

By: _____


Printed Name Jose L. Lopez, Sr.

Title: Durham Chief of Police

EXHIBIT A
INTER – GOVERNMENTAL AGREEMENT
2012 DEMOCRATIC NATIONAL CONVENTION

**STATUTORY AUTHORITY TO ENTER INTO INTERGOVERNMENTAL
AGREEMENT**



N.C. STATUTORY AUTHORITY

EXHIBIT A

§ 160A-288. Cooperation Between Law-Enforcement Agencies

(a) In accordance with rules, policies, or guidelines officially adopted by the governing body of the city or county by which he is employed, and subject to any conditions or restrictions included therein, the head of any law-enforcement agency may temporarily provide assistance to another agency in enforcing the laws of North Carolina if so requested in writing by the head of the requesting agency. The assistance may comprise allowing officers of the agency to work temporarily with officers of the requesting agency (including in an undercover capacity) and lending equipment and supplies. While working with the requesting agency under the authority of this section, an officer shall have the same jurisdiction, powers, rights, privileges and immunities (including those relating to the defense of civil actions and payment of judgments) as the officers of the requesting agency in addition to those he normally possesses. While on duty with the requesting agency, he shall be subject to the lawful operational commands of his superior officers in the requesting agency, but he shall for personnel and administrative purposes, remain under the control of his own agency, including for purposes of pay. He shall furthermore be entitled to workers' compensation and the same benefits when acting pursuant to this section to the same extent as though he were functioning within the normal scope of his duties.

(b) As used in this section:

(1) "Head" means any director or chief officer of a law-enforcement agency including the chief of police of a local department, chief of police of county police department, and the sheriff of a county, or an officer of one of the above named agencies to whom the head of that agency has delegated authority to make or grant requests under this section, but only one officer in the agency shall have this delegated authority at any time.

(2) "Law-enforcement agency" means only a municipal police department, a county police

department, or a sheriff's department. All other State and local agencies are exempted from the provisions of this section.

(c) This section in no way reduces the jurisdiction or authority of State law-enforcement officers.

(d) For purposes of this section, the following shall be considered the equivalent of a municipal police department:

(1) Campus law-enforcement agencies established pursuant to G.S. 115D-21.1(a) or G.S. 116-40.5(a).

(2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes.

(3) Law enforcement agencies operated or eligible to be operated by a municipality pursuant to G.S. 63-53(2).

(4) Butner Public Safety Authority.

(5) A Company Police agency of the Department of Agriculture and Consumer Services commissioned by the Attorney General pursuant to Chapter 74E of the General Statutes.

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§ 160A-288.3 Assistance By Out-of-State Law Enforcement Officers (Exp. October 1, 2012)

(a) In accordance with rules, policies, or guidelines adopted by the governing body of the city by which the officer is employed, and subject to any conditions or restrictions included therein, the head of any law enforcement agency of a municipality with a population that exceeds 500,000 may request and enter into temporary intergovernmental law enforcement agreements with out-of-state law enforcement agencies or out-of-state law enforcement officers to aid in enforcing the laws of North Carolina within the jurisdiction of the requesting municipality if so requested in writing by the head of the requesting agency. The assistance may comprise allowing out-of-state law enforcement officers to work temporarily with officers of the requesting agency (including in an undercover capacity) and lending equipment and supplies. While working with the requesting agency under the authority of this section, an out-of-state law enforcement officer shall have the same jurisdiction, powers, rights, privileges, and immunities (including those relating to the defense of civil actions and payment of judgments) as the officers of the requesting agency. While on duty with the requesting agency, the out-of-state law enforcement officer shall be subject to the lawful operational commands of the chief of police and the chief's chain of command for the requesting agency.

(b) As used in this section, the following definitions apply:

(1) "Head" means any director or chief officer of a law enforcement agency, including the chief of police of the requesting agency or an officer of the requesting agency to whom the head of that agency has delegated authority to make or grant requests under this section.

(2) "Law enforcement agency" means a municipal police department for a municipality that has a population of more than 500,000. All other State and local agencies are exempted from the provisions of this section.

(3) "Out-of-state law enforcement agency" means an employer which is a governmental agency outside of this State and which is assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the home jurisdiction or serving civil processes, and which has employees who possess the power of arrest by virtue of an oath administered under the authority of the home jurisdiction.

(4) "Out-of-state law enforcement officer" means a full-time paid employee of a governmental employer who is actively serving in a position with assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the officer's home jurisdiction or serving civil processes, and who possesses the power of arrest by

virtue of an oath administered under the authority of the home jurisdiction, and who is in good standing and has no pending civil, criminal, or departmental action that would disqualify the officer if the officer were certified by this State.

(5) "Temporary intergovernmental law enforcement agreement" means any agreement entered into by the agency head with the head of another out-of-state law enforcement agency for the use of officers or equipment for a designated period of time.

(c) This section in no way reduces the jurisdiction or authority of State law enforcement officers.

(d) Notwithstanding the provisions of G.S. 128-1 and G.S. 128-1.1(c1), out-of-state law enforcement officers shall be authorized to hold dual offices when one of the appointive offices held is that of out-of-state law enforcement officer and the other appointive office is that of a law enforcement officer for a municipality authorized to enter into temporary intergovernmental law enforcement agreements pursuant to this section.

(e) Notwithstanding the provisions of Chapter 17C and Chapter 17E of the General Statutes, out-of-state law enforcement officers certified and sworn in the officers' home jurisdiction and subject to the provisions of an intergovernmental law enforcement agreement under this section shall be deemed to have met the certification requirements of this State for the purposes of being sworn as a law enforcement officer with the requesting agency.

(f) An intergovernmental law enforcement agreement entered into pursuant to this section shall address standards of conduct for the out-of-state law enforcement officers, including the requesting agencies' policies regarding the use of force. Additionally, the intergovernmental law enforcement agreement shall require all out-of-state law enforcement officers to successfully complete training as prescribed by the requesting agency. The intergovernmental law enforcement agreement shall also address the compensation of out-of-state law enforcement officers and the protocol for processing claims made against or by the out-of-state law enforcement officer.

(g) This section becomes effective January 1, 2012, applies to all intergovernmental law enforcement agreements entered into on or after that date, and expires October 1, 2012.

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EXHIBIT B
INTER-GOVERNMENTAL AGREEMENT
2012 DEMOCRATIC CONVENTION

APPROVED COSTS, MAXIMUM CONTRACT REIMBURSEMENT AND
REIMBURSEMENT TABLE



Approved Costs and Maximum Contract Reimbursement

EXHIBIT B

Agency: Durham Police Department
Address: 505 W. Chapel Hill Street
City: Durham State: NC Zip: 27701

I. **Event Services and Resources:**

Compensation will be paid for law enforcement services during the event period as outlined in this Agreement. This includes, but is not limited to, crowd management, security at venues and events, traffic control, supervisory oversight and related law enforcement functions that support the safety and security of the DNC.

II. **Labor Rates:**

The maximum allowable compensation will be calculated according to the compensation table below as detailed by rank/position.

A. **Uniform Rates:**

These rates will be hourly and all-inclusive of indirect costs, such as administrative costs for support of such Officer, but not inclusive of DNC clerical administration. Law Enforcement Officers will be paid based on the rank of the DNC assignment they are given, which may not necessarily be the same as their Agency rank.

- i. Each full-time equivalent (FTE) uniform officer committed to this agreement for the duration of the Event Period shall be present at the assigned duty location fully equipped. Fully equipped is defined as in full uniform, hat, foot wear, headgear, duty belt and accessories, firearm, magazine(s), ammunition, radio and communication accessories, personal

O.C. spray, and personal protective equipment (PPE). See attached Approved Equipment List.

B. DNC Civilian Personnel:

These rates will be hourly and apply to civilian staff necessary for providing full time support to law enforcement officers assigned to the Event. All civilian personnel must be authorized by the CMPD Deputy Chief of DNC Operations, or his designee, prior to final contract being executed.

III. Equipment and Vehicle Usage:

The Agency will be compensated for vehicles used in direct support of the DNC Operations Plan. This will not include transportation to and from an assigned check-in location or duty assignment at the beginning of a shift. All vehicles and equipment must be pre-approved by the CMPD Deputy Chief of DNC Operations, or his designee, prior to submitting for reimbursement.


IV. Compensation Table


PERSONNEL COSTS			
Rank	Hourly Rate	FTE Commitment	Maximum Labor
Officer/Deputy/Corporal	\$40.85	77	\$264,217.80
Sergeant	\$53.82	9	\$40,687.92
Lieutenant	\$61.16	2	\$10,274.88
Captain and above	\$64.07	1	\$5,381.88
Civilian Personnel	\$31.92	0	\$0.00
		Personnel Total:	\$320,562.48
		25% Contingency:	\$80,140.62
		Total:	\$400,703.10

VEHICLE COSTS (Event Operations Use)				
Type	Mileage Rate	Number of Vehicles	Number of Miles	Total Cost
Police Car	\$.23 / mile			
Police Motorcycle	\$.23 / mile	4		
Police Van	\$.23 / mile			
Vehicle Totals:				\$

- Hourly rate for sworn law enforcement established using the average salary of a CMPD officer with 10 years of law enforcement experience working in an overtime (1.5x rate) capacity.
- Hourly rate for civilian personnel was established using the average salary of a CMPD Administrative Officer II working in an overtime (1.5x rate) capacity.
- Maximum Labor is calculated at the Hourly OT rate x FTE Commitment x 12-hour (shifts) x 7 days.
- Contingency column is calculated at 5 percent of the maximum labor, planning, training, contingency, and vehicle costs.
-

AGENCY FISCAL AFFAIRS CONTACT	
Name	Jesse Burwell
Position	Assistant Chief – Administrative Services Bureau
Telephone #	919-560-4322 x29205
Fax #	919-560-4971
Email Address	Jesse.Burwell@durhamnc.gov

Signature	
Individual authorized to certify compensation/reimbursements and primary contact for fiscal issues.	

Police Operational and Planning Contact	
Name	Larry Smith
Position	Deputy Chief – Operations Bureau
Telephone #	919-560-4322 x29201
Fax #	919-560-4971
Email Address	Larry.Smith@durhamnc.gov
Signature	
Individual authorized to certify compensation/reimbursements and primary contact for logistical service issues.	

APPROVED EQUIPMENT LIST

- Class A or Class B Uniform with hat *
- Badge
- Name Plate
- Service Weapon
- Ammunition
- Handcuffs
- Bullet proof vest
- Traffic Vest
- Gas Mask
- Radio
- Flashlight
- Personal OC Spray

*This is your official department-issued uniform, hat and shoes/boots. Long or short sleeve shirts are acceptable, but no BDU-type uniforms unless otherwise authorized by CMPD Planning Unit Commander, Capt. Michael Adams.

Prohibited Equipment

- Tasers
- Any less than lethal munitions
- Riot Control Agents (person O.C. spray is allowed)

EXHIBIT C
INTERGOVERNMENTAL AGREEMENT
2012 DEMOCRATIC NATIONAL CONVENTION
FISCAL ADMINISTRATION REQUIREMENTS



FISCAL ADMINISTRATION COMPENSATION/REIMBURSEMENT REQUIREMENTS

EXHIBIT C

Basic Requirements

- A. **Security Work Requirement:** Compensation will be provided only for activities and costs directly incurred for approved security work, approved administrative support work, or core services as defined in Exhibit D in preparation or training for or during the DNC.
- B. **Approval Process:** All sections shall be completed on the required forms and contain written certification by the Agency Financial Officer noted in Exhibit B. Compensation requests shall be sent to the CMPD Deputy Chief of DNC Operations, or designee, of the City.
- C. **Travel Reimbursement Process:** All travel-related expenses must be **pre-approved** by the CMPD Deputy Chief of DNC Operations, or his designee, and submitted on the proper Compensation/Reimbursement form.

Records and Compensation/Reimbursement form requirements

- A. **Compensation/Reimbursement form:** The form for requesting compensation for DNC security work and reimbursement for travel costs is attached. The city may modify and update this required form as it reasonably determines necessary, in order to meet its internal or external auditing needs or the requirements of the City, CMPD and/or DNC Grant.
- B. **Agency Required Documentation for Personnel Costs:** The Agency will be required to maintain individual payroll records as supporting documentation for compensation requests submitted to the City. These records may be in hard copy or electronic time and effort systems and must back up any and all payroll costs incurred and billed. Records must include staff name, date, assignment and time worked in support of the DNC.

- C. **Submission of Compensation/Reimbursement Requests:** The Agency may submit requests on a monthly basis or in accordance with the following calendar:

<u>Activity/Cost Time Period</u>	<u>Deadline for submission</u>
Costs for the period 10/1/11 – 6/31/12	07/15/2012
Costs for period 7/1/12 – 8/31/12	09/15/2012
Costs for period 9/1/12 – 9/30/12	10/15/2012

In no event will the Agency be allowed to submit a compensation/reimbursement request past the time allowable under the DNC Grant.

- D. **Compensation/Reimbursement Form(s) Adequacy:** The Agency must submit a completed form, including proper signatures verifying and certifying the accuracy of the request for compensation or reimbursement. If forms are incomplete, lack appropriate documentation, or if requests for are submitted on an unauthorized form, the CMPD Deputy Chief of DNC Operations, or his designee, may reject the request. The CMPD Deputy Chief of DNC Operations, or his designee, will communicate the reason for the rejection in writing. The Agency will have twenty (20) days to correct the error and resubmit the claim.
- E. **Compensation/Reimbursement Form Process:** The CMPD Deputy Chief of DNC Operations, or his designee, shall review and approve each request for payment. Once the approval is obtained, the request will be forwarded to the CMPD Fiscal Affairs Division for processing. The Agency shall receive payment for said request within sixty (60) days of receipt in the CMPD Finance Affairs Division.
- F. **Supporting Documentation Record Retention Requirements:** All supporting records, including time sheets, activity logs, and equipment invoices, must be retained by the Agency for seven years after the end of the Grant period.

Additional Financial Information

- A. The City, subject to the terms of this Agreement, will compensate Agency for personnel costs at the applicable hourly rate(s) stated in Exhibit D, for hours worked in planning for, training and during the DNC on security for the DNC. Training must be pre-approved by the CMPD Deputy Chief of DNC Operations. Time will be rounded to the nearest ¼ hour (rounding up to the next 15 minutes for seven minutes of work or more and down for anything less than seven minutes.)
- B. Civilian Personnel hours will be compensated at the rate shown in Exhibit D.

- C. In addition to any requirements contained in this Agreement, all records must be maintained for future DNC Grant audits, and the Agency will be fiscally responsible for the result of any Agency error in connection with such audit.

EXHIBIT D
INTERGOVERNMENTAL AGREEMENT
2012 DEMOCRATIC NATIONAL CONVENTION

TERMS OF INSURANCE POLICIES

See Attachment labeled "Terms of Insurance Policies"



2012 DEMOCRATIC NATIONAL CONVENTION CHARLOTTE, NC

GROUND TRAVEL INFORMATION

Agency: Durham Police Department				
Date: July 5, 2012				
Contact Person: Captain Mike Ripberger Michael.Ripberger@durhamnc.gov 919-560-4322 x29203				
ARRIVAL INFORMATION	Date of Arrival (month/date/yr)	9/1/2012		
Total Number of Members	89			
Total Number of Vehicles	(Indicate # in each category)	Agency	Personal	Rental
	Emergency Equipped Patrol Cars or SUV's	6		
	Non-emergency Equipped Cars or SUV's			
	Vans			
	Buses			2
	Trailers or Other	1		
Expected Arrival Time (For check-in planning purposes)	Approximately 11:00am			



ADDITIONAL INFORMATION:

- 1. This form is for Agencies traveling solely by ground transportation from their home jurisdiction to Charlotte, NC.**
- 2. Each Agency traveling by bus, van or cruiser will be responsible for making all travel and transportation arrangements for that agency.**
- 3. All pre-approved bus and van rental costs as well as fuel costs for vans, SUV's and patrol cars will be reimbursed by the City of Charlotte.**

Received Date: _____

By: _____



2012 DEMOCRATIC NATIONAL CONVENTION CHARLOTTE, NC

ACCOMMODATION INFORMATION

Agency: Durham Police Department			
Date Completed: July 5, 2012			
Person Completing Form: Captain Mike Ripberger			
Total Number of Members attending	89		
Total Number of Members requesting lodging	89		
Breakdown Lodging Request (Please adapt for your rank structure)		Male	Female
	Capt. and above	1	
	Lieutenants	2	1
	Sergeants	10	1
	Officers/Deputies/ Corporals	63	11

ADDITIONAL INFORMATION:

- 1. Lodging is a premium in the Charlotte Metro region. We ask that agencies review personnel who need to be housed while in Charlotte.**
- 2. Lodging (double occupancy) will be provided for members of agencies who cannot reasonably commute to Charlotte within one hour.**
- 3. Lodging reservations will be handled by the Charlotte-Mecklenburg Police Department. Room rates (including applicable taxes and fees) will be covered. Non-reimbursable incidental expenses will be the responsibility of the individual(s) occupying each room.**
- 4. All lodging requests must be pre-approved.**
- 5. Roommate request form should be submitted no later than June __; or CMPD will make assignments.**

Received Date: _____

By: _____



**2012 DEMOCRATIC NATIONAL CONVENTION
CHARLOTTE, NC**

**OUTSIDE AGENCY
PERSONNEL AND EQUIPMENT QUESTIONNAIRE**

AGENCY: Durham Police Department
PERSON COMPLETING FORM: Captain Mike Ripberger Cell # : 919-475-3689 Email: Michael.Ripberger@durhamnc.gov
DATE FORM COMPLETED: July 5, 2012

PERSONNEL INFORMATION		
Breakdown of Personnel (Please adapt for your rank structure) <small>*Reimbursement rate will be determined by role during DNC.</small>		Total Number of Sworn Members Attending
	Captains and Above	1
	Lieutenants	3
	Sergeants	11
	Officers/Deputies/Corporals	74
	Non Sworn Support <small>*As authorized by CMPD</small>	
	Total from your agency	89



BRIEFING INFORMATION

All participating agency members are required to attend a briefing. Briefings will be held at the following times on Saturday, Sept. 1, 2012. Please place an X next to the time your agency will attend a briefing:

☐ 1000 ☐ 1200

☒ 1400 ☐ 1800 (Reserved for long-distance travelers only)

LONG-DISTANCE TRAVEL

Agencies are expected to arrive Saturday, Sept. 1 and depart on Thursday, Sept. 6 or Friday, Sept. 7. (*Some may be asked to arrive earlier.)

REGIONAL AND LOCAL TRAVEL:

Agencies that can reasonably commute on a daily basis are expected to travel home each night.

COMMAND PERSONNEL EQUIPMENT

Cell Phones	YES	X	NO	
Text Messaging	YES		NO	
Personal Protection Gear	YES	X	NO	
Visibility Gear / Traffic Vest	YES	X	NO	

Due to the logistics of the event area, members will only be able to carry items that can be stored on their persons (i.e. gas masks, etc.). Any gear bags or large items will be stored in transportation assets (buses, cruisers) and may not be readily accessible.



CREDENTIALING INFORMATION			
Does your agency have a photo credential with passport style picture?	YES	X	NO
If so, what is the photo format? (JPEG or PNG) CMPD will contact your agency soon with instructions for electronically submitting photographs of officers for credentialing purposes.	JPEG		

